Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Developing a Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	
	)	
Sprint Petition for Declaratory Ruling Regarding the Routing and Rating of Traffic by ILECs	)	DA 02-1740
	)	

SPRINT REPLY COMMENTS

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Summary

Sprint has been attempting to launch PCS service to customers in McClenny Florida, which is served by Northeast Telephone Company, Inc., for over a year. Initially, BellSouth refused to load Sprint's code in its tandem switch. After Sprint began preparations for this filing, BellSouth changed its policy and loaded the code. However, Northeast Telephone, the subtending ILEC, has now refused to load Sprint's code, even on an interim basis, unless Sprint agrees to construct a direct connection to that office. Thus, Sprint has been effectively prevented from providing service in Northeast Telephone's territory for over a year with no resolution in sight.

The Commission should reaffirm that, under existing federal law, ILECs must honor the routing and rating points that CMRS carriers designate for their NXX codes. CMRS carriers have used different routing and rating points since the inception of the mobile telephony industry two decades ago; industry standards explicitly permit the practice; and the Commission has approvingly recognized this long-standing practice.

There is also no basis to change existing rating and routing practices on a prospective basis. Adoption of the small ILEC position would effectively require CMRS carriers to interconnect directly with every ILEC, including in circumstances where such interconnection cannot be cost justified. Adoption of the small ILEC position would delay or prevent CMRS entry in rural areas and limit the competitive alternatives available to consumers in rural areas. And adoption of the small ILEC position would harm competition, because it would effectively preclude CMRS customers in rural areas from enjoying the same local calling area that ILECs extend to their own customers.

The Commission should decline the invitation to expand the scope of the Sprint petition. Issues such as the obligation of tandem switch owners to provide transit service and the "unidentified tandem traffic problem" are important, but their resolution is not necessary for a decision on the Sprint petition. The Commission should address these related issues separately, so it can act on a complete record in such matters.

Finally, Sprint corrects the numerous misstatements of fact contained in the ILEC comments. While these statements illustrate a need for the Commission to provide more explicit guidance to small ILECs concerning their interconnection obligations under federal law, they do not have any bearing on the limited issue Sprint has presented for decision. Sprint urges the Commission to promptly reaffirm that all telecommunications carriers have a statutory obligation to timely load in their networks numbering resources obtained by carriers, and to use the rating and routing points designated by the carrier holding the numbering resource.

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SPRINT REPLY COMMENTS

Sprint Corporation, on behalf of its wireless division ("Sprint"), submits this reply to the various comments that were filed in response to its May 9, 2002 declaratory ruling petition.[1]

It is important to reiterate at the outset the narrow issues for which Sprint has requested clarification from this Commission. Sprint has requested that the Commission confirm that an incumbent local exchange carrier ("ILEC") may not refuse to load in its network telephone numbering resources that an interconnecting carrier acquires in compliance with the Commission's numbering rules and may not refuse to honor routing and rating points that an interconnecting carrier designates for its numbering resources. Contrary to what certain parties allege, Sprint seeks a confirmation of current law and long-standing industry practice; it does not seek a change of law or policy. Indeed, it was BellSouth's attempt to unilaterally alter the industry guidelines for rating and routing that led to Sprint's filing.

As demonstrated below and by the comments of other carriers, the industry requires immediate clarification on the issues presented. Comments filed by other wireless carriers confirm

that numerous ILECs are refusing to honor codes lawfully obtained by wireless carriers and refusing to honor the rating and routing points lawfully designated by wireless carriers. As a result, consumers, and particularly those consumers located in rural areas, are being denied competitive choices.

The facts leading to Sprint's Petition in this proceeding are illustrative of this point. Sprint has been attempting to launch service to end user customers in McClenny Florida, which is served by Northeast Telephone Company, Inc., for over a year. Initially, BellSouth refused to load Sprint's code in its tandem switch. After Sprint began preparations for this filing, BellSouth changed its policy and loaded the code. However, Northeast Telephone, the subtending ILEC, has now refused to load Sprint's code, even on an interim basis, unless Sprint agrees to install a direct connection to that office. Thus, Sprint has been effectively prevented from providing service in Northeast Telephone's territory for over a year with no resolution in sight.

I. BACKGROUND

A. THE COMMISSION SHOULD BE APPRISED OF RECENT DEVELOPMENTS

Sprint filed its declaratory ruling petition with the Commission on May 9, 2002. The next day, on May 10, 2002, BellSouth filed its own declaratory ruling petition on the same subject, before the Florida Public Service Commission ("FPSC"). BellSouth asked the FPSC to determine whether Sprint's request to load a code in BellSouth's Tandem with a non-BellSouth rate center violated BellSouth's Florida General Subscriber Service Tariff. Sprint notes that this Commission has squarely held that incompatible state tariffs do not excuse a carrier from com-

[1] *See Public Notice,* Comment Sought on Sprint Petition for Declaratory Ruling Regarding the Routing and Rating of Traffic by ILECs, CC Docket No. 01-92, DA 02-1740 (July 18, 2002), 67 Fed. Reg. 51581 (Aug. 8, 2002).

plying with federal law.[2] Sprint and Nextel opposed BellSouth's FPSC petition. On July 26, 2002, the FPSC staff recommended that the FPSC deny the petition.[3] Thereafter, on August 6, 2002, BellSouth sought leave to withdraw its petition and at the same time filed a Petition for Investigation and Establishment of Generic Proceeding on the identical issues raised in its Petition for Declaratory Statement.[4] The FPSC granted BellSouth's request to withdraw its Petition on August 7, 2002.[5] The FPSC has not established a procedural schedule to consider BellSouth's request for a generic investigation as of the date of this filing.

II. ARGUMENT

A. UNDER EXISTING LAW, ILECS MUST HONOR THE ROUTING AND RATING POINTS THAT CMRS CARRIERS DESIGNATE FOR THEIR NXX CODES

Sprint asks the Commission to reaffirm that under existing law and industry practice, ILECs must load CMRS NXX codes and honor the rating and routing points that CMRS carriers designate for their codes. When the ILEC comments are stripped of their numerous misconceptions and misunderstandings, it becomes apparent that while they may not like the existing law, they ultimately acknowledge that Sprint's petition accurately describes existing law and long-standing industry practice.

There is no basis to object to CMRS carriers rating their NXX codes to permit mobile customers to enjoy an inbound local calling area that is comparable to that which an ILEC offers

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[2] *See TSR Wireless* v. *U S WEST,* 15 FCC Rcd 1166, 11183 ¶ 29 (2000), *aff'd Qwest* v. *FCC,* 252 F.3d 462 (D.C. Cir. 2001).

[3] *See* Memorandum from the Office of General Counsel to the Director, Division of the Commission Clerk, Docket No. 010415-TL, File No. PSC\GCL\WP\020415.RCM (July 26, 2002).

[4] *See* BellSouth Petition for Investigation and Establishment of Generic Proceeding, Docket No. 020868-TL (Aug. 6, 2002).

[5] *See Petition of BellSouth Telecommunications for Declaratory Statement Concerning Whether Requested Provision of Telecommunications Service to Sprint PCS in Macclenny, Florida Violates Bell-*

its own customers. Commission rules are very clear that a carrier may obtain numbering resources in each rate center in which it provides service.[6] The Commission has further recognized that CMRS carriers may acquire and rate NXX codes in different ILEC rate centers "to enable the rating of incoming wireline calls as local."[7] Accordingly, there can be no dispute over the right of a CMRS carrier to designate particular NXX codes in a rate center of its choice, including a rate center established by a small ILEC.

The right of CMRS carriers to designate different rating and routing points for the same NXX codes is equally indisputable. Industry guidelines are clear on this point:

> *Each* switching center, *each* rate center and each POI *may* have unique V&H coordinates.[8]

The Commission has, moreover, recognized the long-standing industry practice of CMRS carriers designating different rating and routing points for their NXX codes.[9] Indeed, at least one ILEC commenter acknowledges that "Sprint and other carriers have long utilized the tandem and transport facilities of BellSouth and other carriers to deliver and pick up traffic to and from the networks of the Rural Companies."[10] If certain ILECs were correct in their interpretation of existing law (and they are not), then NANPA has been in violation of this law for the past 20 years,

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South's General Subscriber Service Tariff, Docket No. 020415-TL, *Order Acknowledging Voluntary Dismissal of Petition for Declaratory Statement,* Order No. PSC-02-1063-FOF-TL (Aug. 7, 2002).

[6] *See* 47 C.F.R. §§ 52.15(g)(2) and (3)(B). *See also First NRO Order,* 15 FCC Rcd 7574, 7577 n.2 (2000)("A carrier must obtain a central office code for each rate center in which it provides service in a given area code.").

[7] *NRO NPRM,* 14 FCC Rcd 10322, 10371 n.174 (1999).

[8] Central Office Code (NXX) Assignment Guidelines, INC 95-0407-008, at § 6.2.2 (Jan. 7, 2002)(emphasis added).

[9] The Commission has repeatedly recognized that CMRS carriers generally interconnect with other carriers using Type 2A tandem interconnection. *See, e.g., Unified Intercarrier Compensation NPRM,* 16 FCC Rcd 9610, 9643 ¶ 91, 9644 ¶ 95 (2001). It has also recognized that CMRS carriers also rate their NXX codes in multiple ILEC rate centers. *See, e.g., NRO NPRM,* 14 FCC Rcd 10322, 10371 n.174 (1999).

[10] Rural ILEC Comments at 3.

since mobile carriers have utilized different routing and rating points since the inception of the mobile telephony industry.

Once again, it is important to emphasize the narrow focus of Sprint's petition. Sprint is attempting to provide numbers to customers in local service territories within which it is physically providing service. The Sprint customer and the ILEC customer may in fact be one and the same person. Thus, a husband and wife may have a landline phone and a Sprint PCS phone. These customers have a legitimate expectation that they will be able to call one another within the same community without incurring toll charges.

Sprint's Petition does not attempt to modify LEC toll charges for calls to NXXs rated outside of its local calling area. Nor is Sprint attempting to address the issues that arise around the MTA wide local calling scopes of wireless carriers. This petition addresses the limited situation in which a number is rated within a specific rate center to which Sprint is providing service.

The comments submitted by certain ILECs make it apparent that they do not like the long-standing industry practice. But the fact remains that this practice reflects existing law. The Commission should confirm this.

B. THERE IS NO BASIS TO CHANGE EXISTING RATING AND ROUTING PRACTICE IN THIS PROCEEDING

The ILEC comments must be read as a request for the Commission to change long-standing practice by prohibiting CMRS providers from designating different routing and rating points for their NXX codes. The Commission should confirm the current policy to maintain continuity during the pendency of any rulemaking on this issue. If LECs are permitted to deviate from the current practice of designating different routing and rating points for CMRS NXX codes, current network configurations built over a period of twenty years would be placed in jeopardy. Even if the Commission were to consider such a request, it is not relevant to Sprint's

limited request that LECs be required to follow current practice under current law during consideration of this docket.

Even if the Commission were to address the ILEC's concerns, there is no basis in law or policy to adopt this ILEC proposal on a prospective basis. The ILECs' principal interest appears to be a desire to force CMRS carriers to interconnect with them directly – even when direct interconnection is not efficient or cost effective. The Commission cannot grant this request as a matter of law. Section 251(a) guarantees to CMRS carriers the right to interconnect indirectly with other carriers and further imposes on ILECs "the duty to interconnect . . . indirectly with the facilities and equipment of other carriers," including CMRS providers.[11] The ILECs appear to believe that CMRS carriers should be forced to rate their NXX codes based on the ILEC rate center within which the serving mobile switching center ("MSC") is located. But the physical location of a MSC has no bearing on a particular mobile customer's community of interest (*i.e.,* where the customer receives most of his or her calls).

Indeed, this ILEC proposal would lead to absurd results. For example, Sprint provides PCS services in South Bend, Indiana, which is located in the 219 area code. The MSC that supports all but one NXX in South Bend is physically located in Chicago, Illinois, which is within the 630, 312, 708 and 815 area codes. According to the ILEC proposal, Sprint should not be permitted to assign to South Bend PCS customers a telephone number rated in South Bend, their community of interest. Rather, these ILECs contend that a mobile customer who lives and works in South Bend, Indiana must have a Illinois telephone number – meaning that every friend, family member or business associate who calls the mobile customer must make an interstate toll call – even though the mobile customer may be physically located only a block or two from the caller

[11] 47 U.S.C. § 251(a)(1).

in South Bend. It is not surprising that ILECs advocating this arrangement never explain in their comments how their proposal would promote either the public interest or the interest of customers.[12]

The small ILECs proposal that the rating and routing points must be the same has already adversely impacted consumer choice. Consumers in the smaller markets have no wireless choice because wireless providers are, in many cases, faced with no choice. Either the wireless carrier establishes an uneconomic direct connection with the small LEC or it chooses not to serve in the small LECs' territory. Faced with this Hobson's choice, rural customers in smaller markets may be left without wireless service. As noted above, the code that gave rise to Sprint's Petition in the first place has still not been activated because the subtending ILEC, Northeast Telephone, has now refused to load the code unless Sprint agrees to construct a direct connection to their end office.

The Commission's mission, of course, is to promote competition, not to hobble competitors by making it more difficult to compete with the incumbent monopolists. The Commission should, therefore, promptly reject the ILEC proposal that would have the effect of changing long-standing interconnection arrangements.

C. THE COMMISSION SHOULD DECLINE THE INVITATION TO EXPAND THE SCOPE OF THE SPRINT PETITION

Sprint's declaratory ruling petition is very limited in scope. It asked the Commission "to confirm that an incumbent local exchange carrier ("ILEC") may not refuse to load in its network telephone numbering resources that an interconnecting carrier acquires in compliance with the

[12] Small ILECs certainly cannot base their proposal on number efficiency. According to the Commission's most recent data, cellular and PCS carriers use 47% of their telephone numbers, while small ILECs use only 18% of the numbers they have acquired. *See* Industry Analysis and Technology Division, *Numbering Resource Utilization in the United States as of December 31, 2001,* Tables 1 and 3 (Aug. 2002).

Commission's numbering rules and may not refuse to honor the routing and rating points that an interconnecting carrier designates for its numbering resources."[13] Several commenters ask the Commission to address additional issues which, although they may be related, are not necessary to resolve the specific points Sprint raised in its petition.

The Commission should decline this invitation or find an alternative means of addressing these issues in a more direct manner. Sprint agrees that the additional issues identified below are important and may require further Commission action. But commenters raising these additional issues generally provide few facts in support of their position and the limited ten day reply period provides little opportunity to fully brief the multiple complex issues raised. All parties should have an opportunity to address the new issues raised by certain commenters, and the public interest would be better served if the Commission acted upon a complete record. If any party believes that an issue of interest merits the Commission's attention, that party should submit its own, separate petition with the Commission. Nonetheless, Sprint will attempt to briefly respond to each of the issues raised.

1. The Obligation of Tandem Switch Owners to Provide Transit Service Should be Addressed Separately

AT&T and SBC use their comments to debate the issue whether tandem switch owners are legally obligated to provide transit services. AT&T says they are; SBC says they are not.

AT&T is clearly correct. The statutory right to indirect interconnection would be meaningless if tandem switch owners stopped providing transit services, because competitive carriers would be forced to interconnect directly with every other carrier.[14] However, even if SBC is cor-

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[13] Sprint Declaratory Ruling Petition at 1.

[14] Sprint has previously advised the Commission that "just in the Minneapolis area, there are over 40 ILECs, CLECs, and wireless carriers that currently home off the Qwest Minneapolis tandem. To require direct interconnections between each of these carriers would require approximately 780 direct intercon-

rect, the fact remains that a tandem switch could not discontinue its transit services without first securing from the Commission a certificate of public convenience pursuant to Section 214 of the Communications Act.[15]

The continued availability of transit services is a critically important issue; there would be chaos if transit carriers stopped providing their transit services, as the Commission has recognized.[16] But given the importance of this subject to the entire telecommunications industry, the Commission should establish a separate public comment on this transit issue so everyone has an opportunity to submit their views and so the Commission can act on a complete record.

2. The "Unidentified Tandem Traffic Problem" Should be Addressed Separately

The National Telecommunications Cooperative Association ("NTCA") uses its comments to urge the Commission to address what it calls the "unidentified tandem traffic problem." NTCA describes this problem as follows:

> The problem is that when the wireless traffic reaches the rural ILEC network it is unidentified. The rural ILEC does not know which wireless carrier to bill for terminating access or reciprocal compensation for the unidentified wireless traffic.[17]

Sprint understands NTCA's concerns. Every destination carrier should receive from the transit carrier information identifying the originating network, so the destination carrier can bill reciprocal compensation if it chooses. This is an issue between tandem owners and the LECs

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nections. It would be prohibitively expensive to require this number of direct interconnections. Indirect interconnection or transiting is essential to the development of a competitive marketplace." Sprint Reply Comments, CC Docket No. 01-92, at 17 (Nov. 5, 2001). *See also* Nextel Comments at 3 and 7.

[15] *See* 47 U.S.C. § 214(a)("[N]o carrier shall discontinue, reduce, or impair service to a community, or part of a community, unless and until they first have been obtained from the Commission a certificate that neither the present nor future public convenience and necessity will be adversely affected thereby.").

[16] *See Virginia Arbitration Order,* CC Docket No. 00-218, DA 01-2731, at ¶ 118 (July 17, 2002).

[17] NTCA Comments at 4.

that subtend them, however, not between wireless carriers and ILECs. Sprint passes the information necessary for billing with every call. If the tandem owner does not pass this information along to the ILEC, it does not matter where the wireless NXX is rated.

Indeed, this problem would exist regardless of how wireless NXXs are rated. From an ILEC perspective, the rating of a wireless NXX is only relevant to land-to-mobile traffic. The issue of unidentified mobile-to-land traffic has nothing to do with whether the wireless NXX is rated as local or toll or whether they are associated with different rating or routing points. Accordingly, resolution of NTCA's "unidentified tandem traffic problem" is not necessary for resolution of Sprint's rating and routing petition, and the Commission should address NTCA's issue separately.

D. CERTAIN ILEC MISSTATEMENTS OF FACT REQUIRE CORRECTION

The comments filed by certain small ILECs (including their agents and associations) contain numerous misstatements of fact. Sprint below corrects the major misstatements of fact. While these misstatements do illustrate a need for the Commission to provide more explicit guidance to small ILECs concerning their interconnection obligations under federal law, they do not have any bearing on the limited issue Sprint has presented for decision.

1. Sprint Does Not Seek to Use "Virtual" NXX Codes. Numerous ILECs assert that Sprint seeks to use "virtual" NXX codes.[18] This contention is not accurate.

The Commission has defined "virtual" codes as those codes that "correspond with a particular geographic area that are assigned to a customer located in a different geographic area."[19]

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[18] *See, e.g.,* Fred Williamson & Association ("FW&A") Comments at 3, 4, 5, 6, 7, 8 and 9; Oklahoma Rural Telephone Companies ("Oklahoma ILECs") at 2, 6 and 7; Texas Statewide Telephone Cooperative ("Texas Coop") Comments at 1.

[19] *Developing a Unified Intercarrier Compensation Regime,* Docket No. 01-92, FCC 01-132, 16 FCC Rcd 9619, 9652 ¶ 115 n.188 (2001).

Sprint obtains NXX codes only in areas where it has PCS facilities and provides services to customers.[20] Moreover, Sprint customers seek telephone numbers from NXX codes associated with a particular rate center only if they have a community of interest with the rate center.[21] As the Commission has observed:

> [T]o enable the rating of incoming wireline calls as local, wireless carriers typically associate NXXs with wireline rate centers that cover either the business or residence of end-users.[22]

There is, in short, nothing "virtual" about Sprint's provision of services in areas where it obtains NXX codes.

In the end, however, it makes little difference whether Sprint's codes are classified as "virtual" or not. The Commission recently reaffirmed that the NPA NXX should be used to rate a call and not the geographic end points.[23] If, as the Commission has held, it is permissible for a carrier to assign to a customer a telephone number containing an NXX code rated in an area not associated with the customer's community of interest, it is certainly permissible for a carrier to assign to a customer a telephone number containing an NXX code that is rated in the customer's community of interest and where that carrier is in fact providing service.

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[20] Thus, Sprint meets the requirement of the CO Code Guidelines which "requires the applicant for an initial code assignment in a rate center to provide documented proof that the applicant is or will be capable of providing service." JSI Comments at 7. *See also* Oklahoma ILEC Comments at 5-6.

[21] Mobile customers have a keen interest in ensuring that their mobile telephone numbers are rated in the correct rate center, so friends, family and business associates do not incur toll charges in calling the mobile handset. A common complaint among new customers is that they have been assigned the wrong telephone number (a number rated in the wrong rate center) because friends, family and business associates incur toll charges in calling the mobile handset.

[22] *NRO NPRM,* 14 FCC Rcd 10322, 10371 n.174 (1999). *See also First NRO Order,* 15 FCC Rcd 7574, 7577 n.2 (2000)("A carrier must obtain a central office code for each rate center in which it provides service in a given area code.").

[23] *See Virginia Arbitration Order,* CC Docket No. 00-218, DA 01-2731, at ¶¶ 301-02 (July 17, 2002). There is, therefore, no basis to the unsupported assertion of the Oklahoma ILECs: "LECs are not obligated to provide 'virtual' NXXs as part of their obligation to provide nondiscriminatory access to telephone numbers." Oklahoma ILEC Comments at 5.

2. Sprint Is Not Asking Any ILEC to Provide Interexchange Service. The Oklahoma ILECs assert that Sprint wants them to provide interexchange service.[24] This statement is incorrect on several levels. First, as has been noted repeatedly above, the limited issue presented in Sprint's petition is the loading of NXX codes within a rate center being served by the wireless carrier. Accordingly, these are not calls between exchanges, but rather a call within the same exchange. The mobile end user and the ILEC customer are both being served within the same exchange boundary. In fact, the mobile end user and the ILEC customer may be one and the same person. Second, all of these calls are local calls within the reciprocal compensation rules established by the Commission. Telecommunications traffic that originates and terminates within same MTA is subject to reciprocal compensation and not access.[25]

The Oklahoma Corporation Commission recently rejected this very argument as part of its arbitration decision involving these same Oklahoma ILECS and wireless carriers. In that proceeding the Oklahoma ILECs argued that the Oklahoma Commission was requiring them to act as interexchange carriers when it issued an Order acknowledging the intraMTA rule and finding that access charges do not apply to intraMTA traffic. In rejecting the ILEC interexchange argument, the OCC found that the ALJ's recommended decision "in no way affects past OCC orders regarding access rulings or anything else, as these matters all concern land line to land line calls."[26] According to the OCC, "since the arbitration concerns wireless to land line and land line to wireless calls and concerns wireless carriers, a carrier that we don't regulate, and a land line carrier that we do regulate, the OCC rules and regulations of the OCC generally do not ap-

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[24] *See* Oklahoma ILECs at 2-3.

[25] 47 C.F.R. §51.701(b)(2)

[26] *See* Oklahoma Corporation Commission Order No. 466613 issued in Consolidated Cause Nos. PUD 200200149-153, Attachment A at pp. 2-3.

ply."[27] Accordingly, the OCC rejected the rural ILECs' attempts to characterize this intraMTA traffic as interexchange traffic subject to access charges whether exchanged on a direct or indirect basis.[28]

3. Sprint Is Not Asking Any ILEC to Provide a Wide Area Calling Service. The Oklahoma ILECs further assert that Sprint is asking them to provide for free "wide area calling or reverse billing arrangements."[29] This assertion is not accurate.

The Commission has noted that "wide area calling, also known as 'reverse billing' or 'reverse toll,' is a service in which a LEC agrees with an interconnector not to assess toll charges on calls from the LEC's end users to the interconnector's end users, in exchange for which the interconnector pays the LEC a per-minute fee to recover the LEC's toll carriage costs."[30] With a wide area calling service, an ILEC customer's local calling area is effectively enlarged for certain land-to-mobile calls, because the customer is not billed toll charges even though the mobile customer does not have a telephone number rated in the originating rate center.

Sprint does not seek in its petition an inbound local calling area that is larger than the inbound calling area ILECs provide to their own customers. Sprint seeks only that an ILEC apply to Sprint customers the same local calling area that the ILEC provides to its own customers. Thus, Sprint is not asking any ILEC to provide a wide area calling service.[31]

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[27] *Id.*

[28] *Id.* at 4.

[29] Oklahoma ILEC Comments at 4.

[30] *TSR Wireless* v. *U S WEST,* 15 FCC Rcd at 11168 n.6. *See also Metrocall* v. *Southwestern Bell,* 16 FCC Rcd 18123, 18125 n.13 (2001). Many RBOCs once offered a LATA-wide wide area calling service, but most (if not all) of these services have been withdrawn.

[31] It should be noted that the OCC failed to conclude that Wide Area Calling Plans ("WACPs"), which were established prior to the Telecommunications Act of 1996, have any impact on the local service area of wireless carriers. In other words, regardless of the WACP designations, calls that at the beginning of the call originate and terminate within the same MTA, are local and subject to reciprocal compensation.

4. Sprint Is Not Asking ILECs to Expand Their Local Calling Areas. The Rural ILECs assert that grant of the Sprint petition "*could* be construed to mean that a rural LEC offering local exchange service in a very limited geographic area in rural Pennsylvania *could* be required to includes calls to a Sprint customer in New York within the LEC's local exchange service calling scope."[32] This assertion is not accurate.

Assume a rural ILEC customer in Pennsylvania (say, in the 814 area code) calls a Sprint PCS New York customer with a mobile number in the 202 area code. The rural ILEC customer unquestionably would pay toll charges for this interstate call. This example does not, however, address the issue raised in Sprint's petition. Assume Sprint provides its mobile services in this rural ILECs service territory and that it acquires a NXX code rated in the rural ILEC's rate center. This local land-to-mobile call should be rated as a local call to the rural ILEC customer. If the Sprint PCS customer in rural Pennsylvania happens to be traveling in New York City or San Francisco at the time the land-to-mobile call is made, it is Sprint (and not the rural ILEC) which bears the responsibility of transporting the call to the mobile customer's physical location at the time (whether New York City or San Francisco). There is, therefore, no basis to the Rural ILEC assertion that "the Rural Company would be responsible for the costs of transporting and terminating the call to Sprint in New York."[33]

5. Sprint Seeks to Confirm the Status Quo, Not Change It. John Stuarulakis asserts that "Sprint is attempting to change normal and customary industry practices":

> Sprint's petition is a request for a change in the current law and not a declaration of current law. . . . Sprint is in fact asking the Commission to create a new rule

[32] Alliance of Incumbent Rural Independent Telephone Companies and the Independent Alliance ("Rural ILECs") Comments at 2 (emphasis added).

[33] *Id.* at 2.

> imposing additional obligations on the telecommunications carriers, specifically rural ILECs.[34]

This assertion is not supported by any citation to law or industry guidelines and is simply incorrect.

Since the inception of the mobile telephony industry, mobile carriers have used Type 2A interconnection – an arrangement whereby a mobile switching center ("MSC") is connected directly to a LATA tandem switch.[35] Type 2A interconnection gives a CMRS carrier access to all switches that subtend the tandem switch, whether the end office switch is owned by the RBOC tandem owner, another ILEC, or another competitive carrier (CLEC or CMRS). The LEC bible, *Notes on the Network,* describes Type 2A interconnection as follows:

> The Type 2A interconnection is at the MTSO and a designed BOC tandem switching system. Through this option, the CMC [Cellular Mobile Carrier] can establish intra-LATA connections to BOC end offices connected to the tandem *and to other carriers interconnected through the tandem.*[36]

The routing arrangements that Sprint seeks with most small ILECs is thus the same routing arrangements that small ILECs and CMRS carriers have used for nearly 20 years.

Nor does Sprint seek to change the way that ILECs rate their calls. The Commission has noted that under "the current system, . . . carriers rate calls by comparing the originating and terminating NPA-NXX codes."[37] Under this system, an ILEC rates a call as local if the called party has a NXX code rated in the same rate center as the calling party; the ILEC will rate the

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[34] John Staurulakis, Inc ("JSI") Comments at 2 and 5.

[35] *See, e.g., Unified Intercarrier Compensation NPRM,* 16 FCC Rcd 9610, 9642 ¶ 91 (2001); *Bowles* v. *United Telephone,* 12 FCC Rcd 9840, 9843 ¶ 5 (1997). In contrast, with Type 2B interconnection, a MSC is connected directly to a specific end office switch. "Under Type 2B interconnection, the CMRS provider's primary traffic route is the Type 2B connection, with any overflow traffic routed through a Type 2A connection." *CMRS Equal Access NPRM,* 9 FCC Rcd 5408, 5451 ¶ 105 (1994). Thus, Type 2A tandem interconnection is also needed to implement a Type 2B end office interconnection.

[36] *Notes on the Network*, TR-NPL-000275, Section 16, Cellular Mobile Carrier Interconnection, at 16-2 § 2.03 (April 1986)(emphasis added).

call as toll if the calling and called NXX codes are rated in different rate centers. Sprint does not ask the Commission to change this current system in any way.

There is, therefore, no basis to the unsupported assertion that Sprint is seeking to change current law and arrangements concerning the routing and rating of traffic involving CMRS carriers.

6. Sprint Is Not Asking Small ILECs to Limit Their Interconnection Negotiation Rights. One group of small ILECs suggests that Sprint is attempting to "limit the rights of Rural Companies regarding the negotiation of interconnection arrangements."[38] This assertion is not accurate.

Most carriers that interconnect indirectly with each other exchange traffic on a bill-and-keep basis, without paying call terminating to each other, because the traffic volumes are not large enough to justify the costs of negotiating an interconnection contract, preparing monthly statements, and auditing monthly statements sent by the other carrier. Nevertheless, Sprint is willing to negotiate a reciprocal compensation contract with any ILEC if it prefers to choose this course. Grant of Sprint's petition has nothing to do with the obligation of carriers to engage in good faith negotiations upon request.

7. The Communications Act Does Not Require Direct Interconnection with Each ILEC. Several small ILECs contend that Section 251(c)(2) of the Communications Act requires that each CMRS carrier must interconnect directly with each ILEC, even when traffic volumes are not large enough to cost justify a direct connection.[39] These ILECs would have the Commission believe that Congress has required carriers to use inefficient interconnection arrangements –

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[37] *Virginia Arbitration Order,* CC Docket No. 00-218, DA 01-2731, at ¶ 301 (July 17, 2002).

[38] Rural ILEC Comments at 3.

[39] *See, e.g.,* Oklahoma ILEC Comments at 2-3; JSI Comments at 15; National Telecommunications Cooperative Association ("NTCA") Comments at 4; JSI Comments at 6-7 and 8. These ILECs make this

which would serve no useful purpose but which would have the effect of increasing the cost of providing service to customers.[40] This claim simply ignores the explicit language of the Act.

Congress was clear in Section 251(a) that "[e]ach telecommunications carrier has the duty to interconnect directly *or indirectly* with the facilities and equipment of other carriers."[41] Small ILECs fall within the category of a telecommunications carrier, and therefore they have the "duty to interconnect . . . indirectly" with other carriers, including CMRS providers.

Section 251(c)(2) obviously does not undermine in any way the Section 251(a) duty of ILECs to interconnect indirectly with CMRS providers, as some ILECs suggest. Congress added this statute, which applies to ILECs only, to give competitive carriers additional options when they choose to interconnect directly with an ILEC – and not to limit the options available to competitive carriers. Section 251(c)(2) provides that when a competitive carrier elects to use direct interconnection with a particular ILEC, a competitive carrier can seek interconnection "at any technically feasible point within the carrier's network."[42] The Commission has already recognized that this statute applies to direct interconnection only, and not to indirect interconnection:

> [S]ection 251(c) specifically imposes obligations upon incumbent LECs to interconnect, upon request, at all technically feasible points. This direct interconnection, however, is not required under section 251(a) of all telecommunications carriers.[43]

Section 252(c) argument even though they assert that they are not subject to Section 252(c). *See, e.g.,* JSI Comments at 4.

[40] It is noteworthy that small ILECs demanding that CMRS carriers use direct interconnection, never allege (much less document) that direct interconnection would be more cost effective compared to indirect interconnection.

[41] 47 U.S.C. § 251(a)(1)(emphasis added).

[42] 47 U.S.C. § 251(c)(2)(B).

[43] *First Local Competition Order,* 11 FCC Rcd 15499, 15991 ¶ 997 (1996).

There may be circumstances where a direct connection between a CMRS carrier and a small ILEC could be justified (*e.g.,* two carriers exchange sufficient traffic volumes between their networks such that direct interconnection becomes more cost effective compared to indirect interconnection). In this regard, the Commission has noted that competitive carriers like CMRS providers "have the incentive to move their traffic onto direct end office trunks when it will be more cost-effective than routing traffic through the [RBOC] tandems."[44] If any ILEC believes that a particular CMRS carrier is unreasonably refusing to enter into a direct interconnection arrangement, it can request interconnection negotiations and arbitrate any disagreements (by demonstrating that direct interconnection would be more cost effective than indirect interconnection).

CMRS carriers operate in a highly competitive market, and they have a strong economic incentive to reduce costs wherever possible. CMRS carriers will therefore readily entertain proposals for direct interconnection where such an arrangement makes sense. The problem with the ILEC argument, other than its inconsistency with the unambiguous terms of the Act, is that they want to require CMRS carriers to use direct interconnection – even when such interconnection cannot be cost justified under any circumstances.

8. The Originating Network Has the Obligation to Transport Its Calls to the CMRS Network. John Staurulakis asserts that "[i]f a CMRS provider chooses to have its local traffic routed to a location outside an ILEC service area, then the CMRS provider must be required to pay for the transport and transit of the traffic to a point within the ILEC service area":

> There are no rules supporting Sprint's claim that ILECs have an obligation to transport or make arrangements for the transport of local traffic outside their service area.[45]

These assertions, entirely unsupported, are inaccurate.

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[44] *Virginia Arbitration Order,* CC Docket No. 00-218, DA 01-2731, at ¶ 88 (July 17, 2002).

As noted above, the Communications Act specifies that competitive carriers can choose to interconnect indirectly with other carriers. To facilitate this right of indirect interconnection, the Commission has adopted a "single point of interconnection per LATA" rule. The Commission recently reaffirmed that an originating network may not charge the destination network for the costs the originating network incurs in delivering its traffic to the destination network's point of interconnection in the LATA:

> The Commission's rules . . . prevent any LEC from assessing charges on another telecommunications carrier for telecommunications traffic subject to reciprocal compensation that originates on the LEC's network. Furthermore, under these rules, to the extent an incumbent LEC delivers to the point of interconnection its own originating traffic that is subject to reciprocal compensation, the incumbent LEC is required to bear financial responsibility for that traffic.[46]

Thus, under existing rules, an ILEC (large or small) has the obligation to deliver its land-to-mobile calls to the CMRS carrier network *via* the Type 2A interconnection point at the LATA tandem switch. This obligation is hardly unreasonable since the CMRS carrier has the reciprocal obligation to deliver its mobile-to-land calls to the small ILEC's network *via* the LATA tandem switch.[47]

9. It Is the CMRS Carrier, Not the ILEC, Which Chooses the Preferred Form of Interconnection. Several small ILEC comments assert that the "Commission has already determined that under section 251(a) interconnection, the providing carrier [*i.e.,* the ILEC] can choose the method of interconnection based on its own technical and economic choices":

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[45] JSI Comments at 9,

[46] *Virginia Arbitration Order,* CC Docket No. 00-218, DA 01-2731, at ¶ 52 (July 17, 2002).

[47] There is, therefore, no basis to the assertion that Sprint seeks the Commission's "help in establishing interconnection with the Rural Companies . . . with any responsibility for the charges of transporting and terminating traffic on the Rural Companies' networks." Rural ILEC Comments at 2. Sprint, and it believes all other CMRS carriers, recognize their obligation under the Act to deliver mobile-to-land calls to the ILEC switch serving the ILEC customer being called. What CMRS carriers find baffling is that some

> The Commission does not permit the requesting carrier, in this case Sprint, to receive section 251(a) interconnection either directly or indirectly, based on its own technical and economic choices.[48]

This assertion is not accurate, as Sprint pointed out in its declaratory ruling petition. In fact, the Commission has specifically held that it is interconnecting carriers, not the ILEC, that can choose the type of interconnection "based upon their most efficient technical and economic choices," expressly ruling that "a LEC is obligated to provide a CMRS provider with the interconnection of its choice upon its request."[49]

> [A CMRS] carrier is entitled to choose the most efficient form of interconnection for its network, and the BOCs may not dictate an RCCs' [Radio Common Carriers'] type of interconnection.[50]

In this regard, Commission rules explicitly state that a "local exchange carrier *must* provide the type of interconnection reasonably requested by a mobile carrier."[51]

It bears emphasis that the indirect interconnection CMRS carriers seek imposes no burden on small ILECs in any way. Small ILECs receive mobile-to-land traffic over their existing trunk group connecting their end office switches to the tandem switches. They can send their land-to-mobile traffic to a CMRS carrier using the same tandem trunk group.

10. Miscellaneous ILEC Misstatements.

- The existing rating and routing arrangements would "[d]estroy the current jurisdictional (local, intrastate, interstate and international) traffic distinctions."[52] This is not accurate. As noted above, calls are rated jurisdiction-

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small ILECs refuse to acknowledge their reciprocal obligation – namely, deliver to the CMRS carrier's MSC their land-to-mobile calls.

[48] JSI Comments at 6. *See also id.* at 10; Rural ILECs' Comments at 1 ("[G]rant of the Sprint Petition would be . . . disruptive of established interconnection arrangements.")

[49] *Bowles* v. *United Telephone,* 12 FCC Rcd 9840, 9849 ¶ 15 (1997).

[50] *Third Radio Common Carrier Order,* 4 FCC Rcd at 2369 2376 ¶ 47 (1989).

[51] 47 C.F.R. § 20.11(a)(emphasis added).

[52] FW&A Comments at 3.

ally by comparing the NXX codes of the calling and called parties. In fact, as Sprint demonstrates above with its South Bend example, it is the ILEC proposal that would "destroy" current jurisdictional traffic distinctions.

- Sprint seeks to "expand the local calling scope of traffic destined for Sprint's end users."[53] This is not accurate. The issue is what inbound local calling area will be available to mobile customers – that is, can a mobile customer residing in a certain area have the same inbound calling area available if the customer instead uses the ILEC's services.
- Grant of the Sprint petition "*could* adversely impact the implementation schedule and roll-out of Local Number Portability (LNP) and accordingly, Number Pooling in the rural LEC serving areas."[54] This unsupported assertion is inaccurate. LNP and number pooling have nothing to do with the issue Sprint raises in its petition.
- Grant of Sprint's petition would be "at odds with existing network routing governed by the Local Exchange Routing Guide (LERG)" because the "basis for the LERG is that the rating and routing points are the same."[55] This unsupported statement is inaccurate. The LERG contains the rating and routing points designated by the NXX code holder, including when the rating and routing points are not the same.
- "Sprint will not suffer from a competitive disadvantage" if the Commission denies its petition.[56] First of all, Sprint seeks only a confirmation of existing law, and there is, therefore, no basis for the Commission to deny its petition. Sprint would be harmed (and harmed significantly) if the Commission decides to change the rules prospectively. This is because, under the small ILEC proposal, mobile customers could not enjoy the same inbound calling area has landline customers.

These numerous misstatements of fact and law confirm the need for the Commission to provide additional clarification for smaller ILECs.

III. CONCLUSION

For the foregoing reasons and those set forth in its May 9, 2002 declaratory ruling petition, Sprint respectfully requests the Commission to reaffirm that all telecommunications carriers

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[53] FW&A Comments at 4.

[54] FW&A Comments at 7 (emphasis added).

[55] FW&A Comments at 7.

have an obligation under the Communications Act to timely load in their networks numbering resources obtained by carriers and to use the rating and routing points that the carrier holding the numbering resources designates.

Respectfully submitted,

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[56] FW&A Comments at 9.

CERTIFICATE OF SERVICE

I, Jo-Ann Monroe, hereby certify that on this 19th day of August 2002, copies of the foregoing "Sprint Reply Comments" were served by U.S. first-class mail, postage prepaid and/or electronic mail, to the following:

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